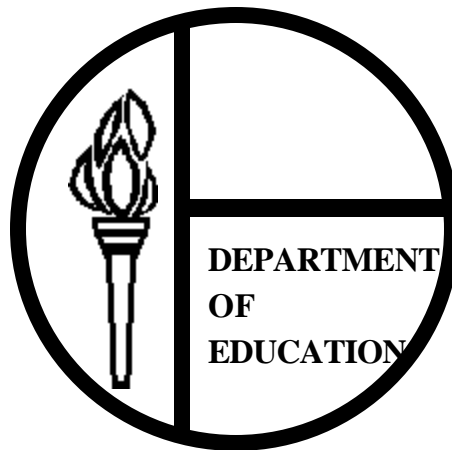


DISCIPLINING STUDENTS WITH DISABILITIES

Technical Assistance Document



Revised October, 2002

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DISCIPLINING STUDENTS WITH DISABILITIES A TECHNICAL ASSISTANCE GUIDE

**Nevada Department of Education
October 2002**

INTRODUCTION

Fulfillment of the procedures for discipline for students with disabilities is a challenge for school districts since it requires the meshing of state law with the complex protections and procedures in federal law contained in the Individuals with Disabilities Education Act (IDEA). This document describes the requirements for students eligible for special education under the IDEA and the Nevada Administrative Code. This information is intended as a guide—it does not replace the need for appropriate legal consultation in a given case. It is an evolving document and may need further clarification and refinement as statutory changes and judicial interpretations are issued.

Section I reviews general discipline principles and includes excerpts from the "Comments" to the 1999 federal IDEA regulations, where applicable. Section II contains a summary of disciplinary procedures in Nevada law. Section III contains five sets of procedures under IDEA, as follows:

- (A) The first set of procedures applies to removals of 10 school days or less, either consecutively or cumulatively.
- (B.1) The second set of procedures applies to a series of removals, each 10 school days or less, that does not constitute a change of placement even though the student has been removed for more than 10 cumulative school days.
- (B.2) The third set of procedures applies to suspensions for misconduct that does not involve weapons, drugs or controlled substances, or dangerous behavior, but constitutes a change of placement because either (1) the removal exceeds 10 consecutive school days, or (2) a series of short-term removals of 10 school days or less has resulted in a pattern of removals.
- (C) The fourth set of procedures applies to the special rules for misconduct that does involve weapons, drugs, or controlled substances.
- (D) The fifth set of procedures applies to the special rules for misconduct that does involve dangerous behavior.

Procedural checklists for these different circumstances are presented throughout.

SECTION I

GENERAL DISCIPLINE PRINCIPLES

Differences between disciplinary procedures for students with disabilities and the procedures for students who are not disabled

Federal and state statutes and regulations provide protections for students with disabilities who are subjected to disciplinary actions in schools. These protections do not extend to students who are not disabled. In general, students with disabilities cannot be subjected to a long-term suspension if the conduct which results in disciplinary action is related to the student's disability. Secondly, students with disabilities are entitled to services after 10 school days of suspension, regardless of whether the conduct is related to the disability. If the misconduct involves drugs, weapons or controlled substances, or if the student presents a danger to self or others, special rules apply.

Federal law precedent over state law

State disciplinary rules do apply to students with disabilities; however, federal protections and procedures must be followed. State laws can be implemented only to the extent that they do not conflict with federal requirements. For example, if a student's conduct is related to the student's disability, federal law does not permit further disciplinary removals for that conduct under most circumstances.

Categories of disability protected under these rules

Each student eligible for special education and related services (other than gifted and talented) under the Nevada Administrative Code is protected under the discipline rules, regardless of the student's disability category. Students with speech/language impairments are as fully protected as students with emotional disturbance.

There is no statutory basis for treating children with disabilities differently under the discipline provisions because of the nature of their disability. (Comments to 1999 federal regulations, p. 12617)

SHORT-TERM DISCIPLINARY REMOVALS

The "10 Free Days" rule

Under federal law, during the first 10 school days that a student is suspended in a school year, there are no requirements to provide services, conduct a manifestation determination, develop a plan for or conduct a functional behavioral assessment (FBA), or develop or review a behavior intervention plan (BIP). This 10-day period, whether consecutive or cumulative, is sometimes referred to as the "10 free days."

The position that services and the development of a behavioral assessment plan are not triggered if a child with disabilities is removed from his or her current placement for 10 school days or less in a given school year is based on the language of the statute . . . interpreted in light of the legislative history of the Act . . . This interpretation gives school officials reasonable flexibility for dealing with minor infractions of school rules by children with disabilities, yet ensures that children with disabilities are not cut off from educational services and that their behavior is appropriately addressed. (Comments, p. 12618)

However, during the "10 free days" districts must adhere to the discipline requirements that apply to all students.

Days that "count" toward the accumulation of 10 school days

Any disciplinary removal of a student from school grounds "counts" toward the accumulation of 10 school days. Only in-school suspensions, under certain circumstances, can be configured so as to avoid "counting" as disciplinary removals. See below.

Under the federal regulations, "school day" means any day, including a partial day, that children are in attendance at school for instructional purposes. The term "school day" has the same meaning for all children in school, including children with and without disabilities.

"Business day" means Monday through Friday, except for federal and state holidays (unless holidays are specifically included in the designation of "business day," as in federal regulations at §300.403(d)(1)(ii).

Ordinary in-school disciplinary procedures do not "count" toward the accumulation of 10 school days

The U.S. Supreme Court in Honig v. Doe (1988) stated that ordinary in-school disciplinary measures are not considered disciplinary removals. These measures may include "the use of study carrels, time-out, detention, or the restriction of privileges." School officials should avoid the excessive use of any of these measures, without considering the need to reconvene the student's IEP committee to review behavior needs.

. . . while there is no requirement that [measures such as study carrels, time-outs, or other restrictions in privileges] be specified in a student's IEP, IEP teams could determine that it would be appropriate to address their use in individual situations. (OSEP Memorandum 95-16 (1995))

In-school suspensions, bus suspensions, or portions of a school day "counted" toward the accumulation of 10 school days

Comments in the federal regulations have provided the following guidance on whether in-school suspensions, bus suspensions, and portions of school days "count" toward the accumulation of 10 school days.

In-School Suspensions

In-school suspensions only "count" toward the accumulation of 10 school days in certain circumstances:

An in-school suspension would not be considered a part of the days of suspension . . . as long as the child is afforded the opportunity to continue to appropriately progress in the general curriculum, continue to receive the services specified on his or her IEP and continue to participate with nondisabled children to the extent they would have in their current placement. (Comments, p. 12619)

See *IN-SCHOOL SUSPENSION TRACKING FORM* (Appendix A) for use in determining and recording whether an in-school suspension should count toward the accumulation of 10 school days. Careful attention must be given to whether opportunities to progress in general curriculum are provided and whether the IEP services are provided. In addition, schools must evaluate whether the student in an in-school suspension setting is participating with nondisabled peers to the same extent as in the current placement. For example, if a student's IEP requires no removal from regular

educational environments, and the in-school suspension time is spent in isolation, or in an environment serving only students with disabilities, the participation with nondisabled peers will be disrupted, and the in-school suspension time will count.

Portions of a School Day

Portions of a school day do "count" toward the accumulation of 10 school days:

Portions of a school day that a child had been suspended would be included in determining whether the child had been removed for more than 10 cumulative school days or subjected to a change of placement . . . (Comments, p. 12619)

Bus Suspensions

Bus suspensions "count" when transportation is a related service in the student's IEP:

Whether a bus suspension would count as a day of suspension would depend on whether the bus transportation is a part of the child's IEP. If the bus transportation is part of the child's IEP, a bus suspension would be treated as a suspension . . . unless the public agency provides the bus service in some other way, because that transportation is necessary for the child to obtain access to the location where all other services will be delivered. If the bus transportation is not a part of the child's IEP, a bus suspension would not be a suspension . . . In those cases, the child and his or her parents would have the same obligations to get to and from school as a nondisabled child who had been suspended from the bus. However, public agencies should attend to whether the behavior on the bus is similar to behavior in a classroom that is addressed in an IEP and whether bus behavior should be addressed in the IEP or behavioral intervention plan for the child. (Comments, p. 12619)

Note that the U.S. Office for Civil Rights which administers Section 504 and other civil rights laws has taken the position that suspensions from the school bus are governed by the same disciplinary procedures as other suspensions.

DISCIPLINARY REMOVALS BEYOND 10 SCHOOL DAYS

After the 10 "free" days have been used

Several procedural requirements are triggered after the first 10 school days of disciplinary removals. First, if the student has been subjected to a series of short-term removals that total more than 10 school days of removals, the district must analyze whether a "pattern" of removals exists that constitutes a change of placement. Even if there is no change of placement, services must begin no later than the 11th school day of removal. School personnel in consultation with the student's special education will determine the extent of services necessary. Also, within 10 business days of the 11th school day of removal, the IEP committee must meet to consider functional behavioral assessments and/or behavioral intervention plans.

If a disciplinary change of placement is contemplated (because the removal is for more than 10 consecutive school days, or because the series of short-term removals exceeds 10 school days and has resulted in a pattern), notice of any proposed additional removals constituting a disciplinary change of placement must be provided to parents, along with a copy of the statement of parental rights. In addition, the requirements for functional behavioral assessments and behavior implementation plans are triggered.

The requirement to conduct a manifestation determination is also triggered once a school district decides to seek a disciplinary change of placement. Unless the removal is for conduct related to

drugs, weapons, controlled substances, or dangerous behavior, the disciplinary removal is generally not permitted if the conduct is related to the student's disability:

... school authorities may not remove a child with disabilities from the child's current educational placement if that removal constitutes a change of placement ... unless they are specifically authorized to do so under [the authority of school personnel to make a unilateral removal for weapons and drug offenses] ... or unless the parents of the child do not object to a longer removal or the behavior is determined not to be a manifestation of the child's disability. (Comments, p. 12619)

Implications of a determination that there is no relationship between the conduct and the disability

When the behavior is not a manifestation of the student's disability, further disciplinary removals are permitted so long as FAPE (as determined by the IEP committee) is provided:

... if a child's behavior is determined not to be a manifestation of the child's disability, the child may be disciplined in the same manner as nondisabled children, including suspension and expulsion, except that FAPE ... must be provided. (Comments, p. 12620)

To reiterate, if the IEP committee and other qualified personnel find that the misbehavior is related to the disability, removals for that conduct are generally not permissible unless the IEP committee considers and agrees to changes in the IEP and/or placement. Unless such an agreement is reached, the school district will have to resort to an expedited request for an alternative educational setting placement from a hearing officer (for dangerousness) or request a Honig court injunction to accomplish additional removals from the current placement.

Conducting a functional behavioral assessment and developing a behavioral intervention plan outside the context of a disciplinary removal

Federal regulations require that IEP committees consider functional behavioral assessments and behavioral intervention plans whenever the behavior of a student impedes the student's learning or the learning of others. If the IEP committee determines that these services are necessary for the student to receive a free appropriate public education, the school district must provide the services.

As a policy matter, it makes a great deal of sense to attend to behavior of children with disabilities that is interfering with their education or that of others, so that the behavior can be addressed, even when that behavior will not result in a change in placement. In fact, IDEA now emphasizes a proactive approach to behaviors that interfere with learning by requiring that, for children with disabilities whose behavior impedes their learning or that of others, the IEP team consider, as appropriate, and address in the child's IEP, "strategies, including positive behavioral interventions, strategies, and supports to address the behavior." (Comments, p. 12618)

It is recommended that IEP committees address the possible need for a functional behavioral assessment plan and/or review of any existing behavioral intervention plan once a student has been suspended for eight school days in a school year.

Consent for a functional behavioral assessment

If the assessment requires the administration of new tests or other procedures that are not administered to all students, consent is required. If the assessment is conducted based on a review of existing data, consent is not required:

A functional behavioral assessment may be an evaluation requiring parent consent . . . In other cases, it may be a review of existing data that can be completed at the IEP meeting called to develop the assessment plan . . . (Comments, p. 12620)

Components of a functional behavioral assessment

Federal law does not define what constitutes a functional behavioral assessment; however, Nevada regulations define the assessment of functional behavior as follows:

NAC 388.386 Assessment of functional behavior. If the functional behavior of a pupil is assessed, the assessment must include:

1. Systematic observation of the occurrence of the targeted behavior for an accurate definition and description of the frequency, duration and intensity of the behavior.
2. Systematic observation of the events that immediately precede each display of the targeted behavior and are associated with the display of the behavior.
3. Systematic observation and analysis of the consequences following the display of the targeted behavior to identify the specific environmental or physiological outcomes produced by the behavior in order to determine the function that the behavior serves for the pupil. The communicative intent of the targeted behavior must be identified in terms of what the pupil is either requesting or protesting through the display of the behavior.
4. Analysis of the settings in which the targeted behavior occurs most frequently. Factors that may be considered include the physical setting, the social setting, the activities and the nature of instruction, scheduling, the quality of communication between the pupil and staff and other pupils, the degree of participation of the pupil in the setting, the amount and quality of social interaction, the degree of choice and the variety of activities.
5. Review of records for health and medical factors which may influence the targeted behavior, including, without limitation, levels of medication, sleep cycles, health and diet.
6. Review of the history of the targeted behavior to include the effectiveness of any intervention previously used.

As used in this section, "targeted behavior" means the particular adaptive or inappropriate behavior of the pupil that the person conducting the assessment monitors in order to promote adaptive behavior and reduce the occurrence of inappropriate behavior.

Immediate steps if a student engages in misconduct involving drugs, weapons, or controlled substances

Federal regulations permit the school authorities to immediately remove, for up to 10 school days, a student whose misconduct involves drugs, weapons, or controlled substances while the IEP committee determines an appropriate interim alternative setting:

If a child engages in . . . carrying a weapon to school or a school function or knowing possession or use of illegal drugs or selling or soliciting the sale of a controlled substance at school or a school function, the school may first remove the child for up to 10 consecutive school days (providing services as necessary . . .) . . . while convening the IEP team to determine the interim alternative educational setting . . . At the end of that 10 day period, or earlier, if feasible, the child would be placed into the interim alternative educational setting for up to 45 days. (Comments, p. 12620)

Maintaining a student in the interim alternative educational setting for up to 45 days even if the misconduct is determined to be a manifestation of the disability

Federal regulations allow the school district to maintain the student in an interim alternative educational setting, even if there is a relationship between the conduct and the disability:

The placements contemplated [for drugs, weapons, or controlled substances, and for removal by a hearing officer based on determination of dangerousness] . . . are specific exceptions to the obligation to maintain the child in the child's current placement if the parent disagrees with a proposed change of placement and therefore, may continue even if the child's behavior is determined to be a manifestation of the child's disability. (Comments, p. 12620)

Limits on placement in an interim alternative educational setting

Under most circumstances placement in an interim alternative educational setting is limited to 45 calendar days. Federal regulations state:

Interim alternative educational settings . . . are limited to 45 calendar days, unless extended [by a hearing officer] . . . for a child who would be dangerous to return to the child's placement [the placement the child was in] before the removal. (Comments, p. 12620)

Vacations, track breaks, or summer breaks

Vacations, track breaks, and summer breaks "count" toward the 45 calendar day limit on placements in interim alternative educational settings. Federal regulations clarify:

The fact that a school is in recess during a portion of the 45 days does not "stop the clock" on the 45 days during the school recess. (Comments, p. 12620)

Is the 45-day placement in an interim alternative setting mandatory?

Under federal law, placement in a 45-day interim alternative educational setting is designed to "enable school personnel to ensure learning environments that are safe and conducive to learning for all and to give those officials and parents the opportunity to determine what is the appropriate placement for the child" (Comments, p. 12620). Additionally, the interim alternative educational setting becomes the "stay put" placement if parents disagree with a manifestation determination or with the placement. However, the USDOE has stated that districts are not required to utilize this placement option:

The 45-day interim alternative educational settings are not mandatory. If the parents agree with school officials to a change in the child's placement there is no need to use a 45-day interim alternative educational setting. In some instances school officials or hearing officers may determine that a shorter period of removal is appropriate and that a child can be returned to his or her current educational placement at an earlier time. (Comments, p. 12620)

Nevada law prescribes suspensions of one semester, one year, and permanent expulsion depending upon the nature of the misconduct and other circumstances. See Summary of Discipline Procedures in Nevada Statutes, page 10.

IDEA protections for a student who is currently not identified as a student with a disability

IDEA protections in disciplinary actions may be afforded to a student:

- When the student's parent has expressed to the school, in writing, that the student needs special education and related services;
- When the behavior or performance of the student demonstrates the need for such services;
- When the parent has requested an evaluation to determine if the student has a disability;
- When a staff member of the district has expressed concern about the behavior or performance of the student to another staff member; or
- When the student's parent is unable to communicate to the school in writing, but has expressed concern that the student may need special education and related services through some other means.

Under these situations, the district may be "deemed to have knowledge that a student is a student with a disability" and thus the IDEA protections would apply. Consequently, when the district has received a request for an evaluation to determine eligibility, but the determination has not yet been made, the evaluation/eligibility process should be expedited. If the process is expedited, there is less likelihood that the district will find itself having removed a student (who eventually becomes eligible) for more than 10 school days without providing IDEA protections. It is also recommended that while any eligibility decision is pending, the district keep careful records to ensure that the student is not suspended for more than 10 school days without district officials having carefully reviewed the circumstances and the available options.

The regulations also state that if any one of the above situations occurred, and the district (1) evaluated the student and found the student not eligible, or (2) determined that an evaluation was not necessary, and provided the parent with prior written notice of its decision, the district will not be "deemed to have knowledge."

What if the parent requests an evaluation during the time the student is subject to disciplinary action?

The district must conduct the evaluation and determine eligibility in an expedited manner. If the student is determined to be a student with a disability, taking into consideration information from the evaluation conducted by the district and information from the parents, the district shall provide special education and related services, but the student will remain in the educational placement determined by school authorities.

Notifying law enforcement officials of criminal activity committed by a student with a disability

Nothing in the IDEA prohibits a district from reporting criminal acts that are committed by a student with a disability to appropriate authorities, or to prevent state law enforcement and judicial authorities from exercising their responsibilities with regard to crimes committed by students with disabilities. If the district reports a crime committed by a student with a disability, the district must ensure that copies of the special education and disciplinary records are transmitted for consideration by appropriate authorities to whom it reports the crime. Compliance with FERPA requires that districts obtain parental consent before disclosing copies of the student's records to the "appropriate authorities to whom it reports the crime." If parents will not consent, the district must determine whether an exception under FERPA (99.31(a)) applies under the particular circumstances. For example, exceptions are made under FERPA for health and safety emergencies, or to comply with a judicial order or lawfully issued subpoena.

SECTION II

SUMMARY OF DISCIPLINE PROCEDURES IN NEVADA STATUTES

For each of the long-term suspensions/expulsions contemplated in Nevada law, if the district proposes to remove a student with a disability for more than 10 consecutive school days, or for more than 10 cumulative school days in a school year when the removal constitutes a change of placement, the IDEA requirements for notice, functional behavioral assessment, behavioral intervention plan, and manifestation determination are triggered prior to the removal. For offenses involving weapons, drugs or controlled substances, or dangerous behavior, the IDEA permits 45 calendar day placements in an Interim Alternative Educational Setting (IAES) regardless of the outcome of a manifestation determination. See IDEA procedures in the sections that follow this summary.

Temporary Alternative Placements

Removals as described in NRS 392.4642-4648 for "Temporary Alternative Placements" (TAPS) must be made in compliance with IDEA procedures. Accordingly, school administrators should use the *IN-SCHOOL SUSPENSION TRACKING FORM* (Appendix A) to determine whether the TAP period "counts" toward the total disciplinary removals in a current school year. Each period of TAP suspensions "counts" **unless** the following three conditions are present: (1) the student is afforded the opportunity to continue to appropriately progress in the general curriculum, (2) the student continues to receive the services specified on his or her IEP, and (3) the student continues to participate with nondisabled students to the extent he or she would have in the current placement. If a TAP counts, the period of suspension should be entered on the *SUSPENSION TRACKING FORM* (Appendix B) so that it may be included in the total number of days the student has been suspended.

Habitual Discipline Problem

Removals as described in NRS 392.4655 for a student deemed a "Habitual Discipline Problem" must be made in compliance with IDEA procedures. In Nevada (NRS 392.4655), a student is deemed a "habitual discipline problem" if in one school year:

- (a) the student has threatened or extorted, or attempted to threaten or extort, another student or a teacher or other personnel employed by the school;
- (b) the student has been suspended for initiating at least two fights on school property, at an activity sponsored by a public school, on a school bus or, if the fight occurs within one hour of the beginning or end of a school day, on his or her way to or from school; **or**
- (c) the student has a record of five suspensions from the school for any reason.

For purposes of interpreting paragraph (c) of this "habitual discipline problem" statute, a student has been "suspended" if the school prohibits the student from attending school for three or more consecutive days, and requires a conference or some other form of communication with the parent or guardian of the student before he/she is allowed to return to school.

If a student is suspended for initiating his/her first fight of the school year, or if the student receives the first suspension of the school year, the school must provide written notice to the parent or guardian. The notice must contain descriptions and dates of acts committed, an explanation of when the student will be deemed a habitual discipline problem and that once deemed a habitual disciplinary problem the student must be suspended/expelled for at least one semester, an explanation that a student with disabilities can be suspended if his/her behavior is not a manifestation of his/her disability, and an explanation about the opportunity to develop a behavior plan.

Additionally, if a student commits an act which qualifies the student to be deemed a habitual disciplinary problem, at least seven days before the student is deemed a habitual disciplinary problem written notice must be provided to the parent or guardian. The notice must contain a description and dates of qualifying acts, an explanation that the student must be suspended/expelled, an explanation that a student with disabilities can be suspended if his/her behavior is not a manifestation of his/her disability, and an explanation about the opportunity to develop a behavior plan.

The statute says that a student may enter into one behavior plan per school year to avoid the designation of habitual disciplinary problem. For a student with a disability, behavioral intervention plans are developed based upon the student's unique needs and no arbitrary decision should be made limiting the development of behavioral intervention plans.

Suspension and Expulsion Procedures

Nevada law (NRS 392.466-4675) requires a semester-long suspension/expulsion for first-time battery on an employee (causing bodily injury), sale or distribution of drugs, or possession of dangerous weapons, although the student may be placed in another kind of school. Second occurrences require permanent expulsion, but the student must receive equivalent instruction as described in NRS 392.070.

Nevada law requires a one-year expulsion for first-time possession of a firearm, although the student may be placed in another kind of school. For a second occurrence, the student must be permanently expelled from school, but the student must receive equivalent instruction. The school district superintendent may, for good cause shown, allow an exception to the expulsion requirement.

If a student is deemed a habitual disciplinary problem, the student must be suspended or expelled for at least one semester, during which time the student must receive equivalent instruction.

Students are not to be suspended or expelled until they have been given notice of the charges, an explanation of the evidence, and an opportunity for a hearing. However, students who engage in the following behavior may be removed immediately after being given an explanation for the reasons for the removal and the pending proceedings for suspension/expulsion:

- a student who poses a continuing danger to persons or property
- a student who poses an ongoing threat of disrupting the academic process
- a student who is selling or distributing any controlled substances
- a student found in possession of a dangerous weapon

The necessary proceedings must be conducted as soon as practicable after the student's removal.

Board of Trustees Review

Nevada law requires that the Board of Trustees review all permanent expulsions or suspension of students with disabilities for longer than 10 school days (NRS 392.467).

Except for students found in possession of a firearm, any student in grades 1-6 may be suspended or permanently expelled only after the Board of Trustees has reviewed the circumstances and approved this action.

SECTION III

SUMMARY OF IDEA DISCIPLINE PROCEDURES

A. REMOVALS OF 10 SCHOOL DAYS OR LESS

For the first 10 school days of removal in a given school year, either consecutively or cumulatively, no services or procedures are required, beyond the state law requirements that apply to all students. State law requires that students be given notice of the charges against him/her, an explanation of the evidence, and an opportunity for a hearing. (NRS 392.467.2)

It is recommended that when a student accumulates at least eight school days of suspension in a school year, the IEP committee may wish to convene to review and revise any existing behavior intervention plan. If no behavioral intervention plan exists, the committee may plan a functional behavioral assessment (see *FUNCTIONAL BEHAVIORAL ASSESSMENT PLAN*, Appendix C). Then, as soon as the functional behavioral assessment is completed (see *FUNCTIONAL BEHAVIORAL ASSESSMENT*, Appendix D), the IEP committee will reconvene to review the results of the assessment, and develop a behavioral intervention plan if appropriate (*BEHAVIORAL INTERVENTION PLAN*, Appendix E).

Procedural Checklist for Removals of 10 School Days or Less

- ☒ **Make decision to seek removal of student for 10 school days or less.**
- ☒ **Give student notice of the charges against him/her, an explanation of the evidence, and an opportunity for a hearing.**
- ☒ **No services are required.**
- ☒ **No manifestation determination must be conducted.**
- ☒ **No functional behavioral assessment or review of behavioral intervention plan is required by law—however, it is recommended that these procedures be considered after the first 8 days of suspension.**

B. REMOVALS BEYOND 10 SCHOOL DAYS—DETERMINING CHANGE OF PLACEMENT

Students with disabilities generally cannot be subjected to a disciplinary change of placement if the behavior which results in disciplinary action is related to the student's disability. Therefore, prior to removing a student beyond 10 school days in a school year, the district must determine whether a proposed removal will result in a change of placement; and, if so, whether the student's conduct is related to the student's disability. The first step is to determine whether proposed removals will result in a disciplinary change of placement. Applicable rules follow.

Definition of Disciplinary Change of Placement

A disciplinary change of placement will occur whenever:

- (a) The removal is for more than 10 consecutive school days; or
- (b) The student is subjected to a series of removals that cumulate to more than 10 school days in a school year and constitute a pattern.

Analysis of "Pattern"

The analysis of whether a pattern exists should be made by school administrators in consultation with the district Director of Special Education and will be based upon such factors such as:

- (a) The length of each removal;
- (b) The total amount of time the student is removed;
- (c) The proximity of the removals to one another; and
- (d) The behavior(s) resulting in the removals.

The analysis of whether a pattern exists must be made prior to each short-term removal once the student's total removals exceed 10 school days in a school year. Discipline experts have advised that a pattern is likely to exist once the short-term removals total 15 school days.

Following are two sets of procedures, depending upon whether the proposed removal will result in a change of placement. Procedure B.1 describes the steps to be followed when the student will be removed beyond 10 cumulative school days, but no pattern exists and therefore no change of placement will occur. Procedure B.2 describes the steps to be followed when the student will be removed beyond 10 consecutive or cumulative school days, and a change of placement will occur.

B.1 REMOVALS BEYOND 10 CUMULATIVE SCHOOL DAYS THAT DO NOT RESULT IN A CHANGE OF PLACEMENT

FOR BEHAVIOR THAT DOES NOT INVOLVE WEAPONS, DRUGS/CONTROLLED SUBSTANCES, OR DANGEROUS BEHAVIOR

**Procedural Checklist for Removals Beyond 10 Cumulative School Days
That Do Not Result in a Change of Placement
for Conduct that Does Not Involve Weapons, Drugs/Controlled Substances, or
Dangerous Behavior**

- ☒ Send any notices required under Nevada state law.
- ☒ As soon as possible, send written notice of IEP meeting to address functional behavioral assessment and/or behavioral intervention plan.
- ☒ IEP meeting regarding FBA/BIP must be held within 10 business days after first removing the student for more than 10 school days in a school year.
- ☒ Present information (including special education and disciplinary records) to Board of Trustees for final determination and review for compliance with IDEA (state law requirement).
- ☒ School personnel in consultation with special education teacher determine extent of services necessary to enable the student to appropriately progress in the general curriculum and advance toward achieving IEP goals—services must be provided by the 11th cumulative school day of removal and each successive day of removal.

For removals beyond 10 cumulative school days, even if no pattern exists and therefore no change of placement has been made, the requirements for services and the functional behavioral assessment plan and/or behavioral intervention plan are triggered.

Services

Beginning no later than the 11th school day of removal, and for each removal day thereafter, school personnel in consultation with the student's special education teacher must determine the extent to which services are necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the student's IEP.

Functional Behavioral Assessment • Behavioral Intervention Plan

No later than 10 business days after first removing the student beyond 10 school days, the IEP committee must **either**:

- develop an assessment plan if the district did not previously conduct a functional behavioral assessment and implement a behavioral intervention plan (as soon as practicable after developing the assessment plan and completing the assessments, the IEP committee must reconvene to develop appropriate behavioral interventions to address that behavior, and must implement those interventions)

OR

- review an already existing behavioral intervention plan, and modify the plan and its implementation as necessary to address the behavior

If the district has not already conducted a functional behavioral assessment and developed a behavioral intervention plan, the IEP committee must meet to develop an assessment plan. See *FUNCTIONAL BEHAVIORAL ASSESSMENT PLAN* (Appendix C). Note that while it may be possible to conduct the functional behavioral assessment at the same meeting where the plan to do so is developed (based upon review of existing data), in many instances it will be necessary to conduct observations and other evaluations before the functional behavior assessment is complete. If the plan requires that additional data be collected, consent must be obtained from the parents.

Once the *FUNCTIONAL BEHAVIORAL ASSESSMENT* has been conducted and the form completed (Appendix D), the IEP committee reconvenes as soon as practicable to develop appropriate behavioral interventions.

On the other hand, a behavioral intervention plan may already exist. If so, the IEP committee reviews the plan and determines whether the plan needs to be modified. While not specifically required under state or federal law, an existing behavioral intervention plan that was not developed based upon a functional behavioral assessment may be inadequate, and the IEP committee may decide to conduct a functional behavioral assessment even though a behavioral intervention plan already exists.

During any subsequent short-term removals (that do not constitute a pattern, and therefore do not result in a change of placement), the IEP committee members shall review the behavior intervention plan and its implementation to determine if modifications are necessary. If one or more of the committee members believe that modifications are needed, the committee shall meet to modify the plan and its implementation, to the extent the committee determines necessary.

B.2 REMOVALS RESULTING IN A CHANGE OF PLACEMENT

FOR BEHAVIOR THAT DOES NOT INVOLVE WEAPONS, DRUGS/CONTROLLED SUBSTANCES, OR DANGEROUS BEHAVIOR

Procedural Checklist for Removals Resulting in a Change of Placement for Conduct that Does Not Involve Weapons, Drugs/Controlled Substances, or Dangerous Behavior

- ☒ Make decision for a disciplinary change of placement (more than 10 consecutive *school* days, or pattern in a series of short-term removals that total more than 10 cumulative *school* days). Send any notices required under Nevada state law.
- ☒ Send written notice of proposal to remove and to conduct manifestation determination in an IEP meeting WITH rights statement—send on day decision to seek removal is made. Note that this step requires both prior written notice of the proposal to seek a disciplinary change of placement, as well as written notice of an IEP meeting indicating the purpose of the meeting.
- ☒ Conduct manifestation determination within 10 school days of decision to seek removal.
- ☒ As soon as possible, send written notice of IEP meeting to address functional behavioral assessment and/or behavioral intervention plan.
- ☒ IEP meeting regarding FBA/BIP must be held within 10 business days of decision to seek removal. A single IEP meeting may be held to accomplish all tasks (manifestation determination, FBA, BIP) so long as it is held within the shorter of the timelines required under the circumstances (10 school days, or 10 business days).
- ☒ If behavior is not a manifestation of disability, present information (including special education and disciplinary records) to Board of Trustees for final determination and review for compliance with IDEA (state law requirement).
- ☒ Send notice and convene IEP committee to determine services necessary to enable the student to appropriately progress in the general curriculum and advance toward achieving IEP goals—services must be provided by the 11th cumulative school day of removal and each successive day of removal.
- ☒ If behavior is a manifestation of disability, no further disciplinary removals for that behavior are permitted—send notice and convene IEP committee to review/revise program/placement. (Note: The review/revision of the student's program/placement could be accomplished during the manifestation determination meeting, if the meeting notice so stated and the IEP committee determines it has sufficient information to proceed.)

Before a student can be subjected to a disciplinary change of placement, several procedural requirements are triggered. These procedures include the requirements for notice, manifestation determination, functional behavioral assessment, and behavioral intervention plan. To understand when each of these requirements must be fulfilled, it is essential that the school make note of the day that a decision is made to seek a disciplinary removal that will result in a change of placement. (Use the *SUSPENSION*

TRACKING FORM, Appendix B) Then, referencing the day that decision is made, the requirements for notice, manifestation determination, functional behavior assessment, and behavioral intervention plan are tracked.

Procedures for Disciplinary Change of Placement

Notice

On the day that a decision is made to seek a disciplinary change of placement, the district must notify the parents of that decision using the district's prior written notice form, and provide the parents with a statement of parental rights. This notice requirement is in addition to the state law requirement to notify the student of the charges against him/her, explain the evidence, and provide an opportunity for a hearing.

Manifestation Determination

No later than 10 school days after deciding to subject the student to a disciplinary change of placement, a manifestation determination must be conducted. (See *MANIFESTATION DETERMINATION SUMMARY*, Appendix F) The manifestation determination controls whether further disciplinary removals beyond the first 10 school days are permitted.

The manifestation determination is conducted by the student's IEP committee and other qualified professionals. Notice of the IEP meeting that will be held to make the manifestation determination is provided with the notice of proposed disciplinary action.

The group considers, in terms of the behavior subject to disciplinary action, all relevant information, including: evaluation and diagnostic results, including the results or other relevant information supplied by the parents of the child; observations of the student; and the student's IEP and placement. The group then makes the manifestation determination by addressing the following questions *in relation to the behavior for which the student is being disciplined:*

Are the student's IEP and placement appropriate?

Does the IEP address needs in relation to the behavior under consideration?

As appropriate, is there a behavioral intervention plan?

Was the student making progress?

Are there differences between student performance at the onset of the IEP and current performance?

What aspects of the behavior intervention plan were effective/ineffective?

Have the special education services, supplementary aids and services, and behavior intervention strategies been provided consistent with the IEP and placement?

Was the IEP implemented?

Were staff responsible for the implementation of the behavioral intervention plan informed of their specific responsibilities?

Has the student's progress been monitored and documented?

Did the disability impair the student's ability to understand the impact and consequences of the behavior subject to disciplinary action?

Has the student been able to describe what would be the result of engaging in such behavior?

Did the student indicate or understand that the behavior was inappropriate?

Did the disability impair the student's ability to control the behavior subject to disciplinary action?

Has the student demonstrated the ability to:

follow school and classroom rules?

control problem behavior in the past?

demonstrate socially acceptable behavioral choices under similar circumstances?

The behavior subject to disciplinary action is a manifestation of the student's disability if the IEP committee and other qualified professionals find that any one of these factors is met:

the student's IEP and placement were not appropriate, **or**

the services/aids/strategies were not provided consistent with the IEP and placement, **or**

the disability impaired the student's ability to understand the impact and consequences of the behavior, **or**

the disability impaired the student's ability to control the behavior—

If the student's behavior is a manifestation of his or her disability, no further disciplinary removals for that behavior are permitted. However, the IEP committee should make any adjustments to the student's IEP and placement deemed necessary for the student to receive a FAPE. These IEP decisions are subject to disagreement by the parent through ordinary due process hearings.

If the student's behavior is not a manifestation of his or her disability, the student may be disciplined according to the procedures applicable to students without disabilities, except that FAPE must be provided. The student's IEP committee determines the extent to which services are necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the student's IEP.

The parent may request a due process hearing to disagree with the manifestation determination or the resulting placement decision. A hearing under this circumstance is "expedited"—which means that no extensions beyond the 45-day timeline are permitted. During the pendency of the hearing the student would "stay put" in the placement the student was in prior to the removal, unless the parent and school district otherwise agree, or the hearing officer determines that the student is dangerous under the applicable legal standard.

Under Nevada law, a student with a disability may be suspended for more than 10 school days only after the Board of Trustees has reviewed the circumstances and determined that the action complies with the requirements of IDEA. NRS 392.467 states:

5. A pupil who is participating in a program of special education pursuant to NRS 388.520, other than a pupil who is gifted and talented, may, in accordance with

the procedural policy adopted by the Board of Trustees of the school district for such matters, be:

(a) Suspended from school pursuant to this section for not more than 10 days.

(b) Suspended from school for more than 10 days or permanently expelled from school pursuant to this section only after the Board of Trustees of the school district has reviewed the circumstances and determined that the action is in compliance with the IDEA (20 U.S.C. §§ 1400 et seq.).

CAUTION: Even students disciplined under (b) are entitled to educational services.

Functional Behavioral Assessment • Behavioral Intervention Plan

No later than 10 business days after commencing a removal that constitutes a disciplinary change of placement, the IEP committee must **either**:

- develop an assessment plan if the district did not previously conduct a functional behavioral assessment and implement a behavioral intervention plan (as soon as practicable after developing the assessment plan and completing the assessments, the IEP committee must reconvene to develop appropriate behavioral interventions to address that behavior, and must implement those interventions)

OR

- review an already existing behavioral intervention plan, and modify the plan and its implementation as necessary to address the behavior

If the district has not already conducted a functional behavioral assessment and developed a behavioral intervention plan, the IEP committee must meet to develop an assessment plan. See *FUNCTIONAL BEHAVIORAL ASSESSMENT PLAN* (Appendix C). Note that while it may be possible to conduct the functional behavioral assessment at the same meeting where the plan to do so is developed (based upon review of existing data), in many instances it will be necessary to conduct observations and other evaluations before the functional behavior assessment is complete. If the plan requires that additional data be collected, consent must be obtained.

Once the *FUNCTIONAL BEHAVIORAL ASSESSMENT* has been conducted and the form completed (Appendix D), the IEP committee reconvenes as soon as practicable to develop appropriate behavioral interventions.

On the other hand, a behavioral intervention plan may already exist. If so, the IEP committee reviews the plan and determines whether the plan needs to be modified. While not specifically required under state or federal law, an existing behavioral intervention plan that was not developed based upon a functional behavioral assessment may be inadequate, and the IEP committee may decide to conduct a functional behavioral assessment even though a behavioral intervention plan already exists.

C. REMOVALS BEYOND FIRST 10 SCHOOL DAYS TO INTERIM ALTERNATIVE EDUCATIONAL SETTINGS

WEAPONS, DRUGS/CONTROLLED SUBSTANCES

Procedural Checklist for Removals Beyond First 10 School Days to Interim Alternative Educational Settings for Conduct Involving Weapons, or Drugs/Controlled Substances

- ☒ Make decision to remove student beyond first 10 school days because the student possessed or carried a weapon to school or to a school function or knowingly possessed or used illegal drugs, or sold or solicited the sale of a controlled substance while at school or at a school function. Send any notices required under Nevada state law.
- ☒ Order the removal of the student to an appropriate interim alternative educational setting for the same amount of time that a student without a disability would be subject to discipline, but for not more than 45 calendar days.
- ☒ Send written notice of proposal to seek a disciplinary change of placement and to conduct manifestation determination in an IEP meeting WITH rights statement—send on day decision to seek removal is made.
- ☒ Conduct manifestation determination within 10 school days of decision to remove.
- ☒ As soon as possible, send written notice of IEP meeting to address functional behavioral assessment and/or behavioral intervention plan.
- ☒ IEP meeting regarding FBA/BIP must be held within 10 business days of decision to seek removal. A single IEP meeting may be held to accomplish all tasks (manifestation determination, FBA, BIP) so long as it is held within the shorter of the timelines required under the circumstances (10 school days, or 10 business days).
- ☒ Send notice and convene IEP committee to determine services necessary to enable student to continue to progress in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the student's current IEP, that will enable the student to meet the goals set out in that IEP. Also, the setting must include services and modifications that are designed to prevent the behavior from recurring. Services must be provided by the 11th cumulative school day of removal and each successive day of removal.
- ☒ Even if behavior is a manifestation of disability, placement in the interim alternative educational setting may continue for up to 45 calendar days.
- ☒ Present information (including special education and disciplinary records) to Board of Trustees for final determination and review for compliance with IDEA for any removal beyond 10 school days (state law requirement).

In general, the same requirements listed above for notice, manifestation determination, functional behavioral assessment, and behavioral intervention plan apply. However, the school has the authority to order the student to an appropriate interim alternative placement for up to 45 calendar days if the student

carries a weapon to school or to a school function, or the student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function.

The IEP committee determines the interim alternative educational setting (IAES). The setting must enable the student to continue to progress in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the student's current IEP, that will enable the student to meet the goals set out in that IEP. Also, the setting must include services and modifications that are designed to prevent the behavior from recurring.

The school district may require that the student continue placement in the IAES for up to 45 calendar days even if the behavior is a manifestation of the student's disability.

If the parent challenges the IAES or the manifestation determination, the student remains in the IAES pending the decision of the hearing officer or until the expiration of the 45 calendar days, unless the parent and the district agree otherwise. If the district proposes to change the student's placement after the expiration of the IAES, and the parent disagrees with that proposal, the student will remain in the placement the student was in prior to the IAES, pending the decision of the hearing officer. However, if the district believes it is dangerous for the student to be returned to the placement prior to the IAES, the district may request an expedited due process hearing to seek an alternative "stay put" placement for up to 45 calendar days.

D. REMOVALS BEYOND THE FIRST 10 SCHOOL DAYS TO INTERIM ALTERNATIVE EDUCATIONAL SETTINGS

DANGEROUS BEHAVIOR

Procedural Checklist for Removals Beyond First 10 School Days to Interim Alternative Educational Settings for Dangerous Behavior

- ☒ Make decision to seek removal of the student beyond first 10 school days because maintaining the student in his or her current placement is substantially likely to result in injury to the student or to others. Send any notices required under Nevada state law.
- ☒ Send written notice of proposal to seek disciplinary a change of placement and to conduct manifestation determination in an IEP meeting WITH rights statement—send on day decision to seek removal is made.
- ☒ Conduct manifestation determination within 10 school days of decision to seek removal.
- ☒ As soon as possible, send written notice of IEP meeting to address functional behavioral assessment and/or behavioral intervention plan.
- ☒ IEP meeting regarding FBA/BIP must be held within 10 business days of decision to seek removal. A single IEP meeting may be held to accomplish all tasks (manifestation determination, FBA, BIP) so long as it is held within the shorter of the timelines required under the circumstances (10 school days, or 10 business days).
- ☒ School personnel consult with the student's special education teacher to propose an interim alternative educational setting that will enable the student to continue to progress in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the student's current IEP, that will enable the student to meet the goals set out in that IEP, and include services and modifications designed to prevent the behavior from recurring. Services must be provided by the 11th cumulative school day of removal and each successive day of removal.
- ☒ Request an expedited due process hearing to demonstrate by substantial evidence that the current placement is substantially likely to result in injury to the student or to others.
- ☒ If the hearing officer orders the change of placement proposed by the school district, the placement generally may be for not more than 45 calendar days.
- ☒ Even if behavior is a manifestation of disability, placement in the interim alternative educational setting may continue for up to 45 calendar days.
- ☒ Present information (including special education and disciplinary records) to Board of Trustees for final determination and review for compliance with IDEA for any removal beyond 10 school days (state law requirement).

In general, the same requirements listed above for notice, manifestation determination, functional behavioral assessment, and behavioral intervention plan apply. However, only a hearing officer in an expedited hearing can order a student to an interim alternative educational setting for dangerous behavior. The district must demonstrate by substantial evidence that maintaining the student's current placement is substantially likely to result in injury to the student or to others. The hearing officer also considers the appropriateness of the student's current placement, whether the district has made reasonable efforts to minimize the risk of harm in the student's current placement (including the use of supplementary aids and services). Finally, the hearing officer determines if the interim alternative educational setting proposed meets the legal requirements.

School personnel consult with the student's special education teacher and propose an interim alternative educational setting to the hearing officer. The setting must enable the student to continue to progress in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the student's current IEP, that will enable the student to meet the goals set out in that IEP. Also, the setting must include services and modifications that are designed to prevent the behavior from recurring.

If the hearing officer orders the student to an interim alternative educational setting, the school district may require that the student continue placement in that setting for up to 45 calendar days even if the behavior is a manifestation of the student's disability.

If the parent challenges the IAES or the manifestation determination, the student remains in the IAES pending the decision of the hearing officer or until the expiration of the 45 calendar days, unless the parent and the district agree otherwise. If the district proposes to change the student's placement after the expiration of the IAES, and the parent disagrees with that proposal, the student will remain in the placement the student was in prior to the IAES, pending the decision of the hearing officer. However, if the district believes it is dangerous for the student to be returned to the placement prior to the IAES, the district may request an expedited due process hearing to seek an alternative "stay put" placement for up to 45 calendar days.

APPENDICES A - F

Appendix A
STUDENTS WITH DISABILITIES
IN-SCHOOL SUSPENSION TRACKING FORM

STUDENT NAME _____

SCHOOL _____

SCHOOL YEAR _____

CURRENT SERVICE DELIVERY (describe extent to which student participates in general curriculum; describe IEP services; describe extent to which student is removed from regular education environments)

DATE	ENTIRE DAY OR PERIOD?	Opportunity to progress in general curriculum? If so, how?	Receiving IEP services? If so, how?	Same level of participation with nondisabled peers? Describe.	Count as removal? Indicate "N" if all three components were provided; otherwise indicate "Y" & count on Suspension/Expulsion Tracking Form

**Appendix B
STUDENTS WITH DISABILITIES
SUSPENSION TRACKING FORM**

STUDENT NAME _____ **SCHOOL** _____ **SCHOOL YEAR** _____

TRACKING OF FIRST 10 SCHOOL DAYS

Under each number, note days or partial days that count toward the first 10 school days.

À	Á	Â	Ã	Ä	Å	Æ	Ç	È	É
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____

DATE OF DECISION TO REMOVE BEYOND FIRST 10 SCHOOL DAYS AND CHANGE PLACEMENT: _____ **DATE/INITIALS**

Prior written notice, IEP meeting notice, parent rights statement must be sent on the day the decision is made. _____

IEP meeting to address functional behavioral assessment and/or behavior intervention plan
must be conducted by (date of decision) + (10 business days) = _____

Manifestation determination must be conducted by (date of decision) + (10 school days) = _____

If the behavior was not a manifestation of the student's disability and the district intends to proceed with a disciplinary removal, the Board of Trustees must first review the circumstances and determine that the action is in compliance with IDEA. The district must ensure that the special education and disciplinary records of the student are transmitted for consideration by the Board of Trustees in making the final determination regarding the disciplinary action. Note date of Board of Trustees review ○ _____

If the behavior was not a manifestation of the student's disability and the district intends to proceed with a disciplinary removal, the IEP committee must determine the extent to which services are necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the student's IEP. Note date of IEP committee meeting ○ _____

Appendix C
FUNCTIONAL BEHAVIORAL ASSESSMENT
PLAN

STUDENT NAME _____

SCHOOL _____

SCHOOL YEAR _____

DATE _____

PROJECTED DATE TO RECONVENE _____

IEP Committee Members Present:

LEA Representative

Other (Specify Role)

Regular Education Teacher

Other (Specify Role)

Special Education Teacher

Other (Specify Role)

Parent

Other (Specify Role)

DESCRIPTION OF BEHAVIORS THAT HAVE RESULTED IN SUSPENSIONS TO DATE:

TARGETED BEHAVIOR TO BE ASSESSED (Define targeted behavior in terms that are objective, concise, unambiguous, and observable.)

COMPONENTS OF FUNCTIONAL BEHAVIORAL ASSESSMENT		ASSESSMENTS PLANNED TO ADDRESS COMPONENTS (Indirect, Descriptive, Experimental)		PERSON(S) RESPONSIBLE	DATE TO BE COMPLETED
1	Systematic observation of the occurrence of the targeted behavior to define and describe the frequency, duration, and intensity of the behavior.	1			
2	Systematic observation of the events that immediately precede each display of the targeted behavior and are associated with the display of the behavior.	2			
3	Systematic observation and analysis of the consequences following the behavior to identify the outcomes, in order to determine the function of the behavior. Define communicative intent in terms of what the student is either requesting or protesting.	3			
4	Analysis of settings in which behavior occurs most frequently ¹ .	4			
5	Review of records for health and medical factors which may influence the targeted behavior, including levels of medication, sleep cycles, health and diet.	5			
6	Review of history of targeted behavior to include the effectiveness of any intervention previously used.	6			

¹ Factors that may be considered include the physical setting, the social setting, the activities and the nature of instruction, scheduling, the quality of communication between the student and staff and other students, the degree of participation of the student in the setting, the amount and quality of social interaction, the degree of choice and the variety of activities.

Appendix D
FUNCTIONAL BEHAVIORAL ASSESSMENT

STUDENT NAME _____

SCHOOL _____

SCHOOL YEAR _____

DATE _____

IEP Committee Members Present:

LEA Representative

Other (Specify Role)

Regular Education Teacher

Other (Specify Role)

Special Education Teacher

Other (Specify Role)

Parent

Other (Specify Role)

DESCRIPTION OF ASSESSMENTS CONDUCTED:

TARGETED BEHAVIOR ASSESSED (Define targeted behavior in terms that are objective, concise, unambiguous, and observable.)

COMPONENTS OF FBA		ASSESSMENT RESULTS	
1	Define and describe the frequency, duration, and intensity of the behavior.	1	
2	Describe the antecedent(s) of the targeted behavior.	2	
3	Based upon the consequences of the behavior, describe the function(s) of the targeted behavior.	3	
4	Describe setting(s) where behavior most frequently occurs.	4	
5	Describe health and medical factors which may influence the targeted behavior, including levels of medication, sleep cycles, health and diet.	5	
6	Describe history of targeted behavior to include the effectiveness of any intervention previously used.	6	
7	Describe behaviors that could serve as an alternative to the behavior of concern?	7	

Appendix E BEHAVIORAL INTERVENTION PLAN

DATE _____

STUDENT NAME _____ SCHOOL _____ SCHOOL YEAR _____

INDIVIDUALS COMPLETING PLAN:

1. What is the observable and measurable target behavior?

2. In what settings is the behavior likely to occur?

3. What antecedents (triggers) usually provoke this behavior?

4. What is the probable function of the behavior?

5. What will be done to prevent behavior from recurring (e.g., changes to antecedents such as instruction and environment)?

6. What behavior will be taught to replace target behavior?

7. When and how will the student be taught to practice the correct replacement behavior?

8. What will be done when the student uses the correct replacement behavior (positive reinforcement)?

9. What is the plan for dealing with the student at the first indication of the target behavior (consequences)?

10. What method of evaluation will be used to determine if the procedures are working?

11. What will the timeline be to determine success?

Appendix F MANIFESTATION DETERMINATION SUMMARY

Date_____

School_____

Student_____

Birthdate_____

Grade_____

Disability_____

The following IEP Committee Members and other qualified personnel have met to conduct a review of the relationship between the student's disability and the behavior subject to disciplinary action. The team considered all relevant information, in terms of the behavior subject to disciplinary action, including:

- (1) Evaluation and diagnostic results, including the results or other relevant information supplied by the student's parents;
- (2) Observations of the student; and
- (3) The student's IEP and placement.

I. Brief description of alleged infraction(s). Use back side of form or additional sheets of paper if necessary:

II. Brief description of the results of the student's functional behavioral assessment (if completed):

Brief description of the student's current behavioral intervention plan (if one exists):

Brief description of observations of the student and any other relevant information the IEP committee discussed:

III. Action(s) taken at time of offense:

_____ Suspension

_____ Maintained Placement in School Setting

_____ Home Instruction

_____ Placement in Interim Alternative Educational Setting (describe)_____

_____ Other (describe)_____

IV. After consideration of relevant information, the team reached the following conclusions. Provide short answers to these questions on the following page:

Questions (in relation to the behavior for which the student is being disciplined)	Yes	No
Are the student's IEP and placement appropriate?		
Have the special education services, supplementary aids and services, and behavior intervention strategies been provided consistent with the IEP and placement?		
Did the disability impair the student's ability to understand the impact and consequences of the behavior subject to disciplinary action?		
Did the disability impair the student's ability to control the behavior subject to disciplinary action?		

A check-mark in any one of the four shaded boxes indicates that the behavior subject to disciplinary action IS a manifestation of the student's disability.

Therefore, the team finds that the behavior subject to disciplinary action ☐ **IS** ☐ **IS NOT** a manifestation of the student's disability.

_____ Parent Signature	_____ Regular Education Signature
_____ Parent Signature	_____ Signature/Position
_____ LEA Representative Signature	_____ Signature/Position
_____ Special Education Teacher Signature	_____ Signature/Position

CONSIDERATIONS AND ADDITIONAL COMMENTS

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